

Exhibit A

VACCINE RELIGIOUS ACCOMMODATION REQUESTS

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AGENDA

- LEARN ABOUT THE LAW RELATED TO RELIGIOUS ACCOMMODATIONS/EXEMPTIONS
- LEARN ABOUT THE PROCESS USED TO EVALUATE EXEMPTION REQUESTS
- DISCUSSION OF SAMPLE CASES
- QUESTIONS

TITLE VII AND RELIGIOUS ACCOMMODATIONS

“Unless it would be an undue hardship on the employer’s operation of its business, an employer must reasonably accommodate an employee’s religious beliefs or practices.”

RELIGION

All aspects of religious observance and practice as well as belief, not just practices mandated or prohibited by a tenet of the individual's faith.

- Includes not only traditional organized religions, but also religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others.

WHEN IS A BELIEF A “RELIGIOUS BELIEF?”

A belief is “religious” if it is “religious” in a person’s “own scheme of things,” i.e. it is a “sincere and meaningful” belief that “occupies a place in the life of its possessor parallel to that filled by...God.”

This includes theistic as well as non-theistic moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.

SINCERELY HELD

- Beliefs are not protected merely because they are strongly held. Religion concerns “ultimate ideas” about “life, purpose and death.”
- Social, political, or economic philosophies, as well as mere personal preferences, are not religious beliefs protected by Title VII.
 - HOWEVER, overlap between a religious and political view does not place it outside the scope of Title VII’s religious protections, as long as that view is part of a comprehensive religious belief system and is not simply an “isolated teaching.”

SINCERELY HELD

- Focus on the employee's motivation
- Factors
 - Whether employee has behaved inconsistently with the professed religious belief
 - Whether the accommodation sought is a particularly desirable benefit likely to be sought for secular reasons
 - Whether the timing of the request renders it suspect
 - Whether the employer otherwise has reason to believe the accommodation is not sought for religious reasons.

UNDUE HARDSHIP

Employer can demonstrate undue hardship by showing that the proposed accommodation would pose “more than a de minimus cost or burden.”

*Undue hardship will be determined separate and apart from granting or denying an exemption

RELEVANT CASES

When analyzing a religious accommodation claim, courts look behind claims that a belief is based on a more orthodox religion.

Fiedler v. Marumsco Christian School, 631 F.2d 1144 (4th Cir. 1980): Plaintiff's conviction against interracial relationships was a personal preference and not a religious belief, despite the defendant stating that his belief was based on the Bible.

RELEVANT CASES

Although Title VII protects religious beliefs held by an employee that are not based in a traditional religion, relying on a church that does not espouse the belief held by the plaintiff may result in finding that the beliefs are not religious in nature. *See, e.g. McCartney v. Austin*, 298 N.Y.S.2d 26, 27 (N.Y. Sup. Ct., App. Div. 1969) (holding that while the plaintiffs had moral objections to vaccinations, state law did not require an accommodation where they relied on their Roman Catholicism but also submitted documentation that Roman Catholicism as a faith had no objection to the vaccinations at issue, so their beliefs were therefore not religious).

Fiedler: “Nothing other than [the principal/pastor’s] own conclusions indicates that his conviction regarding interracial romantic relationships is shared by the institution [a Baptist church and Christian school]... no valid religious belief has been called into question.”

RELEVANT CASES

The Third Circuit has specifically found that hospitals may deny vaccination religious accommodation requests based on a belief, grounded per the plaintiff in Buddhism, that the vaccines “do more harm than good” and harm the body, because the beliefs are medical and not religious in nature. *Fallon v. Mercy Catholic Med. Ctr.*, 877 F.3d 487, 492 (3rd Cir. 2017)

Thus, “disbelief[] [of a] scientifically accepted view that [the vaccine] is harmless to most people” is a factual, medical belief and not a religious one.

APPLICATION TO VACCINE EXEMPTION REQUESTS

If the employee has not cited a religion or denomination with a known objection to vaccination, then you must determine if the employee has a sincerely held religious belief, or if it is merely a personal, political or social belief.

Accommodation is an *interactive dialog*. You may need to decline the request based on what is provided, but allow the employee to submit additional information.

APPLICATION TO VACCINE EXEMPTION REQUESTS

Has the employee cited an established religion with a known prohibition against vaccination?

The following denominations have a known theological objection to vaccine:

- Dutch Reformed Congregations
- Faith healing denominations, including:
 - Faith Tabernacle
 - Church of the First Born
 - Faith Assembly
 - End Time Ministrie
 - Church of Christ, Scientist

EXEMPTION PROCESS

1. Team Member submits exemption request in VaxTrax
2. Request is pulled by the designated HRBP panelist
3. HRBP panelist reviews the request

EXEMPTION PROCESS

- If the exemption request fits within a known category (e.g., Church of Christ, Scientist), and there is no reason to suspect dishonesty on the part of the Team Member, the exemption will be approved by the designated HRBP panelist.
- If the exemption request does not identify any religious support for the belief, the exemption will be denied by the designated HRBP panelist. The employee should be given the opportunity to submit additional information.
- All other requests should be forwarded to the Committee for discussion/consideration.
- Any time an HRBP panelist has a question or concern about a request, they may forward it to the Committee for discussion/consideration.

EXEMPTION PROCESS

4. Committee Consideration

The Committee, with assistance from University Counsel and EOCR, will analyze the request to determine whether there is sufficient evidence of a sincerely held religious belief to grant an exemption. Factors to be considered will include:

- Evidence that this belief system is practiced in other areas of their life, such as taking of other vaccinations, use of medication, lifestyle choices, etc.
- How long they have held the professed belief (i.e. the timing of the request renders it suspect)
- Behavior inconsistent with the professed religious belief

It may be necessary to ask for additional information from the Team Member.

EXEMPTION PROCESS

5. If the Committee approves a religious exemption, the decision is forwarded by the designated HRBP panelist to operations to determine if allowing a non-vaccinated Team Member in the work area (even with PPE and required testing) would pose an undue hardship to the University. If the answer is yes, then the request will be denied.
6. The decision is entered into Vaxtrax by the designated HRBP panelist which communicates decision to the Team Member.
7. The Team Member may submit additional information

EXAMPLES

For the 1st Church of Christ, Scientists Spiritual healing of disease is a central tenet. In this tenet a higher power will provide protection from hurt, harm or danger.

EXAMPLES

Employee stated that his objection to the vaccine is religious in nature, as a “Christian who believes in the Bible.” He claimed, “It is a God-given responsibility and requirement for me to protect the physical integrity of my body against unclean food and injections.” He then discusses the ingredients of vaccines, including additives, and how they are akin to “unclean food that causes harm to my conscience.”

Is this a “sincerely held religious belief” that entitles the employee to accommodation?

EXAMPLES

“I am a Christian. As the Bible says, my body is a temple, and I treat it as such. My employer should not be able to dictate what I put in my body. Also, I think the government is using the vaccine to spy on people.”

EXAMPLES

“I am objecting to vaccines because I believe in and follow God and the principles laid out in His Word and I have a deeply held belief that vaccines violate them.”

The employee then discusses the ingredients of vaccines, and how they can be harmful to the human body.

EXAMPLES

“I believe that I was made by God and belong to him. He designed my immune system to function a certain way and I trust this system. Anything manmade carries a risk of harming my immune system or the delicate hemostasis that God created. Receiving a vaccination for Influenza carries risks. I trust the innate immune system God has given me and feel that accepting this vaccination would undermine my trust in God.”

EXAMPLES

“It is my religious right not to receive the flu vaccine as it goes against my religious upbringing. My body is a temple not to be given too many inoculations. I will allow my body’s own defense system to work. I stand strong in my religious beliefs to my right to care for myself without drugs that are unnecessary to stay healthy.”

EXAMPLES

Upon denial, the employee from the previous example submitted additional information as follows:

I hereby assert my right to a religious exemption from vaccination. I am a Christian who believes in the Bible, including the teachings in the New Testament. I have a Christian worldview. This perspective recognizes that faith and conscience compel an individual to submit to the proper jurisdiction within the rule of law, in this case, Divine Law.

Specifically, the New Testament teaches that:

Know ye not that ye are the temple of God, and that the Spirit of God dwelleth in you?
If any man defile the temple of God, him shall God destroy; for the temple of God is holy, which temple ye are. ...

What? know ye not that your body is the temple of the Holy Ghost which is in you, which ye have of God, and ye are not your own?

I Corinthians 3:16-17, 6:19 (KJV).

Accordingly I believe, pursuant to my Christian faith, that my body is a temple of the Holy Spirit. It is a God-given responsibility and requirement for me to protect the physical integrity of my body against unclean food and injections.

Continued...

The broad prohibition against consuming anything that might “defile” the body, and hence the conscience, is stated again in 1 Corinthians 8:7:

Howbeit there is not in every man that knowledge: for some with conscience of the idol unto this hour eat it as a thing offered unto an idol; and their conscience being weak is defiled.

Again, in 2 Corinthians 7:1, there is this admonition against defiling the flesh and the spirit:

Having therefore these promises, dearly beloved, let us cleanse ourselves from all filthiness of the flesh and spirit, perfecting holiness in the fear of God.

More broadly, the New Testament requires of Christians that we “Render to Caesar the things that are Caesar’s, and to God the things that are God’s.” (Mark 12:17) When it comes to consuming things into our own bodies, as opposed to make payments to government, compliance with God’s law is required.

The mandated vaccine, with its numerous additives and its mechanism for altering my body, is the equivalent of a prohibited “unclean food” that causes harm to my conscience. Vaccines to me are analogous to what non-kosher food is to orthodox Jews, and no one requires anyone in the United States to consume a substance contrary to their faith. Medical experts may assert that non-kosher food and vaccines are completely healthy, but religious faith compels certain individuals to decline their consumption. I am one of those individuals.

Thus my faith prohibits me from being vaccinated as proposed. Texas law and the U.S. Constitution recognize my right to object to consuming something – this vaccine – because it violates my faith. Therefore I respectfully assert my religious objection to this vaccination.

Does this change your decision?

EXAMPLES

I humbly submit my declination is based on the authority of God and the truths revealed through scripture of the Holy Bible within the Christian faith. All scripture is breathed out by God and profitable for teaching, reproof, correction, and training. In righteousness that the man of God may be complete-equipped for every good work." 2 Timothy3:16 Per scripture, I am to caution what goes into my body. Per scripture given to us by God in the Holy Bible of the Christian faith: "Do you not know that your bodies are temples of the Holy Spirit-who have received from God? You are not your own-you were bought at a price. Therefore honor God with your bodies." 1 Corinthians 6:19-20 "...let us purify ourselves from everything that contaminates body and spirit, perfecting holiness out of reverence for God." 2 Corinthians 7:1

EXAMPLES

“My religion does not allow one to participate in activities that can potentially cause more harm than good. For example, it does not allow me to drink alcohol or consume meat. Vaccination risk of Guillain-Barre, an allergic reaction, coming ill – which has happened to me before – versus benefit must be looked at....This is my religious principle, tenant and belief for my exemption request. If a term is needed, the category would be ‘Hindu.’”

QUESTIONS? COMMENTS?